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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,837	03/22/2004	Ephrian Jordan		1496
22188	7590	11/30/2005		
JACK LO 617 VIEWRIDGE DRIVE PACIFICA, CA 94044				
			EXAMINER WARD, JOHN A	
			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/805,837	Applicant(s) JORDAN, EPHRIAN	
	Examiner John A. Ward	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 1, 5 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1, 5 and 9 are objected to because of the following informalities: it is not cleared in the claim to which base houses the second magnet. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaudio (US 6,799,965) in view of Jensen (US 6,709,266) and in view of Nevin et al (US 4,240,783)

Regarding claims 1, Gaudio ('965) discloses a candle flame extinguisher comprising of a first magnetic member 40 located at the base of a candle 24, a

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transparent container 50 (column 4, lines 13-17), a base 30 under the transparent container (figure 3) and a second magnet 35 located inside the base rotating the candle (see claim 1).

Regarding claim 2 of Gaudioso, column 3, lines 57-65 teaches that a steel clip can be mounted to the bottom of the ca Also Oe does not disclose the relationship between the pitch and gap in the exact word as claimed, but each element is found in the prior art of Oe. The examiner refers applicant to columns 11 and 12 along with figure 16 to explain the criticality of relationship of the d1 to the distance between the lamp 1a and 1b.

Regarding claims 1, 3 and 4, Gaudioso, did not disclose a motor mounted on a spindle of attached to the base or a decorative cover for the base of the candleholder.

Regarding claims 1 and 3, Jensen ('266) shows a candleholder and method of securing a candle having a base 13, a spindle 27 and a motor 25 rotating the spindle by the motor.

Regarding claim 4, Jensen does not disclose a decorative cover around the base of the candle.

It is desired to make a decorative cover around the candleholder for an aesthetically pleasing design.

Regarding claim 4, Nevin et al ('783) discloses a decorative candleholder 15.

Therefore it would be obvious to one having ordinary skill in the art at the time the invention was made to combine the candle of Gaudioso with the spindle of Jensen

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with the decorative candle base of Jensen and a decorative cover of Nevin et al in order to provide a means of rotating the candle as taught by Jensen (column 3, lines 1-12).

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaudioso (US 6,799,965) in view of Jensen (US 6,709,266) and in view of Nevin et al (US 55.

Regarding claims 5, Gaudioso ('965) discloses a candle flame extinguisher comprising of a first magnetic member 40 located at the base of a candle 24, a transparent container 50 (column 4, lines 13-17), a base 30 under the transparent container (figure 3) and a second magnet 35 located inside the base rotating the candle (see claim 1).

Regarding claim 6 of Gaudioso, column 3, lines 57-65 teaches that a steel clip can be mounted to the bottom of the ca Also Oe does not discloses the relationship between the pitch and gap in the exact word as claimed, but each element is found in the prior art of Oe. The examiner refers applicant to columns 11 and 12 along with figure 16 to explain the criticality of relationship of the d1 to the distance between the lamp 1a and 1b.

Regarding claims 5, 7 and 8, Gaudioso, did not disclose a motor mounted on a spindle of attached to the base or a decorative cover for the base of the candleholder.

Regarding claims 5 and 7, Jensen ('266) shows a candleholder and method of securing a candle having a base 13, a spindle 27 and a motor 25 rotating the spindle by the motor.

Regarding claim 8, Jensen does not disclose a decorative cover around the base of the candle.

It is desired to make a decorative cover around the candleholder for an aesthetically pleasing design.

Regarding claim 8, Nevin et al ('783) discloses a decorative candleholder 15.

Therefore it would be obvious to one having ordinary skill in the art at the time the invention was made to combine the candle of Gaudioso with the spindle of Jensen with the decorative candle base of Jensen and a decorative cover of Nevin et al in order to provide a means of rotating the candle as taught by Jensen (column 3, lines 1-12).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaudioso (US 6,799,965) in view of Jensen (US 6,709,266).

Regarding claims 9, Gaudioso ('965) discloses a candle flame extinguisher comprising of a first magnetic member 40 located at the base of a candle 24, a transparent container 50 (column 4, lines 13-17), a base 30 under the transparent container (figure 3) and a second magnet 35 located inside the base rotating the candle (see claim 1).

Regarding claims 9, Gaudioso, did not disclose a motor mounted on a spindle of attached to the base.

Therefore it would be obvious to one having ordinary skill in the art at the time the invention was made to combine the candle of Gaudioso with the spindle of Jensen

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with the decorative candle base of Jensen and a decorative cover of Nevin et al in order to provide a means of rotating the candle as taught by Jensen (column 3, lines 1-12).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Ward whose telephone number is 571-272-2386. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAW
November 28, 2005



JOHN ANTHONY WARD
PRIMARY EXAMINER